PRIVETT ET AL. *v.* UNITED STATES ET AL.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 236. Argued March 18, 1921.—Decided April 18, 1921.

1. A homestead allotment of a half-blood Creek Indian, who died intestate leaving surviving issue, a member of the tribe, born since March 4, 1906, remains inalienable under § 9 of the Act of May 27, 1908, c. 199, 35 Stat. 312, during the lifetime of such issue, until April 26, 1931, if the Secretary of the Interior has not removed the restriction; and a deed made by the heirs in such circumstances is void. P. 203.
2. A finding that a surviving son of a Creek allottee was born since March 4, 1906, *held* sustained by the evidence. P. 203.
3. In a suit to set aside deeds of an Indian allotment made by the heirs of the allottee in contravention of a restriction on alienation imposed by Congress, wherein the validity of the conveyances depended on the date of the birth of a surviving minor son of the allottee, *held* that the United States was in no respect concluded by a finding of the date and a judgment upholding the conveyances, in a prior suit in the state court between the heirs and one claiming under the conveyances, to which suit the United States was not a party. P. 203.

261 Fed. Rep. 351, affirmed.

THE case is stated in the opinion.